

REHABILITATION AGREEMENT

This Agreement, made this day of , 1965,
by and between BOSTON REDEVELOPMENT AUTHORITY, a public body politic
and corporate, created pursuant to Chapter 121 of the Massachusetts
General Laws, and having a usual place of business in Boston,
Massachusetts, and any successor public body or officer hereafter
designated by or pursuant to law (hereinafter called "Authority");
and DEAN L. GITTER, J. TIMOTHY ANDERSON, and GEORGE W. T. RANKINE,
as trustees of the TRIDENT REALTY TRUST under an instrument of trust
dated , 1965, and recorded with the Suffolk Registry
of Deeds in Book , Page , and their successors and
assigns (hereinafter called "Developers").

WHEREAS, in furtherance of the objectives of the Federal Housing
Act of 1949, as amended, and the Massachusetts Housing Authority Law,
Authority has undertaken a program for the clearance and reconstruc-
tion or rehabilitation of slum and blighted areas in Boston;

WHEREAS, pursuant to said program, Authority is engaged in
carrying out an urban renewal project known as the "Downtown
Waterfront-Faneuil Hall Urban Renewal Project" in an area (herein-
after called the "Project Area") which has been duly designated
pursuant to the above-mentioned statutes as a slum and blighted,
or "decadent" area;

WHEREAS, a plan for the execution of said Project, called the
"Downtown Waterfront-Faneuil Hall Urban Renewal Plan" dated
April 15, 1964, as amended on April 8, 1965 (hereinafter called the
"Plan"), has been duly approved by Federal, State and local
authorities, and is or is to be recorded with said Deeds;

WHEREAS, in order to achieve the objectives of the Plan, and to
protect and encourage new public and private investment in the
Project Area, it is necessary to rehabilitate several properties in
the Project Area as set forth in the Plan, including those certain

premises owned by Prince Macaroni Manufacturing Company, whose purchase Developers represent they have contracted for and which are known as and numbered 207-215 Commercial Street and 63 Atlantic Avenue, being the same premises described in the deed of Albert A. Cohen to said Prince Macaroni Manufacturing Company dated December 15, 1959, and recorded with said Deeds in Book 7447, Page 407 (hereinafter called the "Property"); and

WHEREAS, Developers are desirous of undertaking such rehabilitation rather than suffering said premises to be taken by eminent domain by Authority;

NOW, THEREFORE, in consideration of the premises and the mutual promises of the parties hereto, said parties hereby agree as follows:

1. Developers shall acquire title to the Property within forty-five days after the later of (1) Authority's written approval of final plans and specifications as provided in Subsection 2(b) hereinbelow, and (2) Authority's written approval of evidence regarding financing as provided in Subsection 2(d).

2. Developers shall:

- (a) From the time they acquire the Property, until June 8, 2004, devote the Property to, and only to and in accordance with, the uses specified in the Plan and comply with the requirements therein contained;
 - (b) Rehabilitate the Property in accordance with the Plan, and substantially in accordance with the preliminary drawings entitled "63 Atlantic Avenue, Boston, Massachusetts" consisting of ten undated sheets, heretofore, approved by Authority, a complete set of which has been submitted to and is on file at Authority, and complete and detailed final plans and specifications, which shall substantially conform to said preliminary drawings and shall be submitted by

Developers to Authority by May 14, 1965. Authority shall promptly notify Developers in writing of its approval or disapproval of said final plans and specification, stating in detail any grounds for disapproval. If no such grounds are so delivered within forty-five days of such submission, or any resubmission as hereinafter provided, such final plans and specifications shall be deemed approved.

In the event of disapproval, Developers shall, within ten days thereafter, resubmit the final plans and specifications altered to meet the grounds of disapproval. Any resubmission shall be subject to the review and approval of Authority in accordance with the procedure hereinabove provided for an original submission, until final plans and specifications shall be approved by Authority.

Such rehabilitation is to commence within sixty days after the later of (1) Authority's approval of final plans and specifications, as herein provided, and (2) Authority's approval of evidence regarding financing as required in Subsection 2(d), to be diligently prosecuted to completion, and to be completed not later than eight months thereafter.

Notwithstanding any other provision of this Agreement, any bank, insurance company, or other lending institution which becomes a mortgagee of the Property and shall have foreclosed and taken possession of the Property or shall have otherwise acquired the Property from a mortgagor after and because of default, shall not be required to rehabilitate the Property, but any rehabilitation actually undertaken at the option of such mortgagee shall be in accordance with this Agreement.

(c) Until June 8, 2064, not discriminate upon the basis of race, creed, color or national origin in the sale, lease or

rental, or in the use or occupancy of the Property, or any improvements erected or to be erected thereon, or any part thereof.

(d) Not later than fifteen days after Authority's final approval of final plans and specifications pursuant to Subsection 2(b), submit to Authority for its review and approval evidence satisfactory to Authority that Developers have the equity capital and commitments for mortgage financing necessary for the aforesaid rehabilitation of the Property. The approval or disapproval, notice thereof, and resubmissions, if any, shall all be in the same manner and subject to the same time limitations as provided hereinabove in Subsection 2(b) with respect to final plans and specifications.

(e) Not apply for a building permit for the aforesaid rehabilitation of the Property without the prior certification by Authority that such application conforms to the Plan and the above-mentioned final plans and specifications.

(f) From the time they acquire the Property, from time to time, at all reasonable hours, until the satisfactory completion of the aforesaid rehabilitation of the Property, give to the duly authorized representatives of Authority free and unobstructed access for inspection purposes to the Property.

(g) Not, from the time the above-mentioned rehabilitation is completed, until June 8, 2004, change, reconstruct, demolish, subtract from add to or extend any building, structure, or external improvements on the Property resulting in any significant changes to the external appearance of such building, structure or improvements, nor to any lobbies or entrances, without the prior written approval of Authority.

3. In addition to whatever other remedies Authority may have hereunder or at law, it shall have the right, at its option,

to cancel this Agreement for any breach by Developers continuing for a period of thirty days after the giving of written notice by Authority of such breach, with respect to (1) Section 1, or (2) either the time for commencement or completion of rehabilitation pursuant to Subsection 2(b) or (3) Subsection 2(d), in which event all obligations of either party hereto shall cease and this Agreement shall be void without recourse to either party.

4. The provisions of the foregoing Sections 2 and 3 shall be covenants running with the land hereinabove described in any event and without regard to technical classification or designation, legal or otherwise, to the fullest extent permitted by law and equity, binding for the benefit and in favor of, and enforceable by and only by Authority and any successor public body or officer hereafter designated by or pursuant to law against Developers and their successors and assigns. In amplification, and not in restriction of the provisions hereof, it is intended and agreed that Authority shall be deemed beneficiary of said covenants in its own right and also for the purpose of protecting the interest of the community and the other parties, public or private, in whose favor or for whose benefit such covenants have been provided, and said covenants shall be in full force and effect without regard to whether Authority has at any time been, remains or is an owner of or in possession of any land in favor of which the covenants relate. No owner of land hereinabove described shall be responsible under this section except for his acts and defaults while such owner.

Promptly after completion of the rehabilitation as aforesaid, Authority will furnish Developers with an appropriate instrument so certifying in a form suitable for recording in the Suffolk County Registry of Deeds. Such

certification by Authority shall be (and it shall be so provided in the certification itself) a conclusive determination of satisfaction and termination of the obligations of Developers which are set forth in Subsections 2(b), 2(d), 2(e), and 2(f) hereinabove.

5. The Authority shall not acquire the Property pursuant to Section 711 of the Plan.

6. If any provision of this Agreement is held invalid, the remainder shall not be affected thereby if such remainder would then continue to conform to the requirements of applicable laws and of the Plan.

7. No member of the Congress of the United States of America shall be admitted to any share or part hereof, or to any benefit to arise herefrom.

8. No member, official or employee of Authority shall have any personal interest, direct or indirect, in this Agreement, nor shall any such member, official or employee participate in any decision relating to this Agreement which affects his personal interest or the interest of any corporation, partnership, or association in which he is, directly or indirectly, interested. No member, official or employee of Authority shall be personally liable to Developers in the event of any default or breach by Authority or for any amount which may become due to Developers under any obligations under the terms of this Agreement.

9. After the date hereinabove first written, Developers will not, without a prior finding by Authority that such action is consistent with the public interest, employ in connection with its obligations under this Agreement, any person who has participated in the planning or execution of the Plan or related Project and who is named on any list which may be furnished by Authority to Developers as having so participated,

or permit any such person to directly or indirectly acquire an interest, except an interest based upon the ownership of its capital stock if such stock is publicly held or offered, in Developers or in the Property prior to the completion of the aforesaid rehabilitation.

10. Except as otherwise specifically provided in this Agreement, any approvals or determinations required or permitted under this Agreement shall be effective and valid only when given in writing, signed by a duly authorized officer of Authority and sent registered or certified mail, postage prepaid, to the principal office of Developers, which is now:

Developers shall promptly notify Authority of any change in the address of the principal office.

11. Where the approval or determination of Authority is required hereunder, it shall not be unreasonably withheld.

12. Neither Authority nor Developers, as the case may be, shall be considered in breach of or in default in its or their obligations hereinabove in the event of unavoidable delay in the performance of such obligations due to causes beyond its or their control and without its or their fault or negligence, including, but not restricted, to acts of God, or of the public enemy, acts of the Government, acts of the other party, fires, floods, epidemics, quarantine, restrictions, strikes, freight embargoes, and unusually severe weather, or delays of contractors or subcontractors due to such causes, it being the purpose and intent of this provision that in the event of the occurrence of any such delay, the time or times for performance of such obligations shall be extended for the period of the delay as determined by Authority;

Provided, however, that the party seeking the benefit of this Section shall, within a reasonable period after the beginning of any such delay, have first notified the other party thereof in writing, and of the cause or causes thereof. In calculating the length of the delay, Authority shall consider not only actual work stoppages but also any consequential delays resulting from such stoppages. However, in no event shall any financing difficulty be a cause for an extension hereunder, unless resulting from causes as described in this Section 12.

13. This instrument, including instruments referred to herein, sets forth the entire contract between the parties.

IN WITNESS WHEREOF, on the date and year hereinabove first written, at Boston, Massachusetts, the parties hereto have caused this Agreement in five counterparts to be signed, sealed and delivered.

Signed, sealed and delivered
in the presence of:

BOSTON REDEVELOPMENT AUTHORITY

By _____

Edward J. Logue
Development Administrator

TRUSTEES OF THE TRIDENT
REALTY TRUST

Dean L. Gitter

J. Timothy Anderson

APPROVED AS TO FORM:

General Counsel
Boston Redevelopment Authority

George W. T. Rankine

COMMONWEALTH OF MASSACHUSETTS

Suffolk, ss.

, 1965

Then personally appeared before me the above-named Edward J. Logue who executed the foregoing Agreement on behalf of Boston Redevelopment Authority and acknowledged the same to be his free act and deed and the free act and deed of said Authority.

Notary Public
My Commission Expires:

COMMONWEALTH OF MASSACHUSETTS

Suffolk, ss.

, 1965

Then personally appeared before me the above-named Dean L. Gitter, J. Timothy Anderson and George W. T. Rankine and acknowledged the same to be their free act and deed.

Notary Public
My Commission Expires:

